

1 STATE OF CALIFORNIA  
2 ENVIRONMENTAL PROTECTION AGENCY  
3 DEPARTMENT OF TOXIC SUBSTANCES CONTROL  
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7 In the Matter of:

Docket HWCA 2005 0715

8  
9 Alpert & Alpert Iron & Metal,  
10 Incorporated  
11 1815 South Soto Street  
12 Los Angeles, California 90023  
13 CAD 982 019 911  
14

CONSENT ORDER

Health and Safety Code  
Section 25187

15  
16 Respondent.  
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21 The State Department of Toxic Substances Control  
22 (Department) and Alpert & Alpert Iron & Metal, ~~INC~~ <sup>RA</sup> Incorporated  
23 (Respondent) enter into this Consent Order and agree as follows:  
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25 1. Respondent generates, handles and/or manages hazardous  
26 waste at 1820 South Soto Street, Los Angeles, California, 90023  
27 (Site).  
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1           2. The Department inspected the Site on June 16, 22 and 23,  
2 2004.

3           3. The Department alleges the following violations:

4           3.1. The Respondent violated the California Code of  
5 Regulations, title 22, section 66262.20, subsection (a) in that prior  
6 to and continuing until at least June 16, 2004, Respondent failed to  
7 prepare hazardous waste manifests for hazardous waste offered for  
8 transportation for off-site treatment.

9           3.2. Respondent violated the California Code of  
10 Regulations, title 22, section 66262.34, subsection (a)(4), and  
11 section 66265.31, in that Respondent failed to maintain and operate  
12 its facility to minimize the possibility of any unplanned release of  
13 hazardous waste to air or soil. To wit: on or about June 16, 2004,  
14 the Department inspectors observed used oil spills at three separate  
15 locations within the facility.

16           3.3. Respondent violated Health and Safety Code section  
17 25189.2 in that on or about June 16, 2004, Respondent offered for  
18 transportation and storage hazardous waste to a facility not  
19 authorized to accept such hazardous waste.

20           3.4. Respondent violated Health and Safety Code section  
21 25163, subdivision (a) in that on or about June 16, 2004, Respondent  
22 transferred custody of hazardous waste on a bill of lading to an  
23 unregistered transporter.

24           3.5. Respondent violated the California Code of  
25 Regulations, title 22, section 66262.11 in that on or about June 16,  
26 2004, Respondent failed to make a proper hazardous waste  
27 determination.

1           4. The parties wish to avoid the expense of litigation and  
2 to ensure prompt compliance.

3           5. Jurisdiction exists pursuant to Health and Safety Code  
4 section 25187.

5           6. Respondent waives any right to a hearing in this matter.

6           7. This Consent Order shall constitute full settlement of  
7 the violations alleged above, but does not limit the Department from  
8 taking appropriate enforcement action concerning other violations.

9           8. The Respondent admits the alleged violations.

10                           SCHEDULE FOR COMPLIANCE

11           10. The Respondent has corrected the violations cited  
12 above.

13           10.1. Submittals: All submittals from Respondent pursuant  
14 to this Consent Order shall be sent to:

15                           Roberto Kou, Unit Chief  
16                           Statewide Compliance Division  
17                           Department of Toxic Substances Control  
18                           1011 Grandview Avenue  
19                           Glendale, California 91201

20           10.3. Communications: All approvals and decisions of the  
21 Department made regarding such submittals and notifications shall be  
22 communicated to Respondent in writing by a Branch Chief, Department  
23 of Toxic Substances Control, or his/her designee. No informal advice,  
24 guidance, suggestions, or comments by the Department regarding  
25 reports, plans, specifications, schedules, or any other writings by  
26 Respondent shall be construed to relieve Respondent of its obligation  
27 to obtain such formal approvals as may be required.

28           10.4. Department Review and Approval: If the Department  
determines that any report, plan, schedule, or other document

1 submitted for approval pursuant to this Consent Order fails to comply  
2 with the Order or fails to protect public health or safety or the  
3 environment, the Department may return the document to Respondent with  
4 recommended changes and a date by which Respondent must submit to the  
5 Department a revised document incorporating the recommended changes.

6           10.5. Compliance with Applicable Laws: Respondent shall  
7 carry out this Order in compliance with all local, State, and federal  
8 requirements, including but not limited to requirements to obtain  
9 permits and to assure worker safety.

10           10.6. Endangerment during Implementation: In the event  
11 that the Department determines that any circumstances or activity  
12 (whether or not pursued in compliance with this Consent Order) are  
13 creating an imminent or substantial endangerment to the health or  
14 welfare of people on the site or in the surrounding area or to the  
15 environment, the Department may order Respondent to stop further  
16 implementation for such period of time as needed to abate the  
17 endangerment. Any deadline in this Consent Order directly affected  
18 by a Stop Work Order under this section shall be extended for the term  
19 of such Stop Work Order.

20           10.7. Liability: Nothing in this Consent Order shall  
21 constitute or be construed as a satisfaction or release from liability  
22 for any conditions or claims arising as a result of past, current, or  
23 future operations of Respondent, except as provided in this Consent  
24 Order. Notwithstanding compliance with the terms of this Consent  
25 Order, Respondent may be required to take further actions as are  
26 necessary to protect public health or welfare or the environment.

27           10.8. Site Access: Access to the Site shall be provided  
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1 at all reasonable times to employees, contractors, and consultants of  
2 the Department, and any agency having jurisdiction. Nothing in this  
3 Consent Order is intended to limit in any way the right of entry or  
4 inspection that any agency may otherwise have by operation of any law.  
5 The Department and its authorized representatives may enter and move  
6 freely about all property at the Site at all reasonable times for  
7 purposes including but not limited to: inspecting records, operating  
8 logs, and contracts relating to the Site; reviewing the progress of  
9 Respondent in carrying out the terms of this Consent Order; and  
10 conducting such tests as the Department may deem necessary.  
11 Respondent shall permit such persons to inspect and copy all records,  
12 documents, and other writings, including all sampling and monitoring  
13 data, in any way pertaining to work undertaken pursuant to this  
14 Consent Order.

15           10.9.       Sampling, Data, and Document Availability:

16 Respondent shall permit the Department and its authorized  
17 representatives to inspect and copy all sampling, testing, monitoring,  
18 and other data generated by Respondent or on Respondent's behalf in  
19 any way pertaining to work undertaken pursuant to this Consent Order.  
20 Respondent shall allow the Department and its authorized  
21 representatives to take duplicates of any samples collected by  
22 Respondent pursuant to this Consent Order. Respondent shall maintain  
23 a central depository of the data, reports, and other documents  
24 prepared pursuant to this Consent Order. All such data, reports, and  
25 other documents shall be preserved by Respondent for a minimum of six  
26 years after the conclusion of all activities under this Consent Order.  
27 If the Department requests that some or all of these documents be  
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1 preserved for a longer period of time, Respondent shall either comply  
2 with that request, deliver the documents to the Department, or permit  
3 the Department to copy the documents prior to destruction. Respondent  
4 shall notify the Department in writing at least six months prior to  
5 destroying any documents prepared pursuant to this Consent Order.

6 10.10. Government Liabilities: The State of California  
7 shall not be liable for injuries or damages to persons or property  
8 resulting from acts or omissions by Respondent or related parties  
9 specified in paragraph 12.3, in carrying out activities pursuant to  
10 this Consent Order, nor shall the State of California be held as a  
11 party to any contract entered into by Respondent or its agents in  
12 carrying out activities pursuant to this Consent Order.

13 10.11. Incorporation of Plans and Reports: All plans,  
14 schedules, and reports that require Department approval and are  
15 submitted by Respondent pursuant to this Consent Order are  
16 incorporated in this Consent Order upon approval by the Department.

17 10.12. Extension Requests: If Respondent is unable to  
18 perform any activity or submit any document within the time required  
19 under this Consent Order, the Respondent may, prior to expiration of  
20 the time, request an extension of time in writing. The extension  
21 request shall include a justification for the delay.

22 10.13. Extension Approvals: If the Department determines  
23 that good cause exists for an extension, it will grant the request and  
24 specify in writing a new compliance schedule.

## 25 PAYMENTS

26 11.1 Respondent shall pay the Department a total of \$27,500  
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1 as a penalty. Respondent's checks shall be made payable to  
2 Department of Toxic Substances Control, and shall be delivered  
3 together with the attached Payment Voucher to:

4 Department of Toxic Substances Control  
5 Accounting Office  
6 1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

7 A photocopy of the checks shall be sent:

8  
9 To: Roberto Kou, Unit Chief  
Statewide Compliance Division  
10 Department of Toxic Substances Control  
1011 Grandview Avenue  
11 Glendale, California 91201

12 To: Debra Schwartz, Staff Counsel  
Office of Legal Counsel and Investigations  
13 Department of Toxic Substances Control  
1011 Grandview Avenue  
14 Glendale, California 91202

15 If Respondent fails to make payment as provided above,  
16 Respondent agrees to pay interest at the rate established pursuant to  
17 Health and Safety Code section 25360.1 and to pay all costs incurred  
18 by the Department in pursuing collection including attorney's fees.

19 11.2. The penalty shall be reduced by \$5,000 if, and only  
20 if, Respondent sends one employee to the California Compliance School,  
21 Modules I through IV, and submits to the Department, within 180 days  
22 of the effective date of this Consent Order, Certificate of  
Satisfactory Completion thereof.

23 11.3. \$11,250 of the above penalty is due and payable no  
24 later than May 1, 2005. The remaining balance of \$11,250 is due and  
25 payable no later than August 1, 2005.

26 11.4 In the event that the above-mentioned Certificate of  
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1 Satisfactory Completion is not received by the Department within 180  
2 days of the effective date of this Consent Order, the entire remaining  
3 balance of \$5,000 shall become due and payable.

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5 OTHER PROVISIONS

6 12.1. Additional Enforcement Actions: By agreeing to this  
7 Consent Order, the Department does not waive the right to take further  
8 enforcement actions, except to the extent provided in this Consent  
9 Order.

10 12.2. Penalties for Noncompliance: Failure to comply with  
11 the terms of this Consent Order may subject Respondent to civil  
12 penalties and/or punitive damages for any costs incurred by the  
13 Department or other government agencies as a result of such failure,  
14 as provided by Health and Safety Code section 25188 and other  
15 applicable provisions of law.

16 12.3. Parties Bound: This Consent Order shall apply to and  
17 be binding upon Respondent and its officers, directors, agents,  
18 receivers, trustees, employees, contractors, consultants, successors,  
19 and assignees, including but not limited to individuals, partners, and  
20 subsidiary and parent corporations, and upon the Department and any  
21 successor agency that may have responsibility for and jurisdiction  
22 over the subject matter of this Consent Order.

23 12.4. Effective Date: The effective date of this Consent  
24 Order is the date it is signed by the Department.

25 12.5. Integration: This agreement constitutes the entire  
26 agreement between the parties and may not be amended, supplemented,  
27 or modified, except as provided in this agreement.



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Dated: April 4, 2005

Original signed by Alan Alpert

Representative of  
Alpert & Alpert Iron & Metal, Inc.  
Respondent

Dated: April 7, 2005

Original signed by Roberto Kou

Roberto Kou, Unit Chief  
Statewide Compliance Division  
Department of Toxic Substances Control